



POLICE DEPARTMENT

March 6, 2014

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Julie Lockett  
Tax Registry No. 933939  
Brooklyn Court Section  
Disciplinary Case No. 2013-9514  
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The above-named member of the Department appeared before me on November, 4 2013, charged with the following:

1. Said Police Officer Julie Lockett, assigned to the Brooklyn Court Section, on or about March 28, 2013, while on duty and in Kings County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that Police Officer Lockett failed to keep a prisoner under constant surveillance, which resulted in the prisoner's escape. (*As amended*)

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED CONDUCT

The Department was represented by Scott Rosenberg, Esq., Department Advocate's Office. Respondent was represented by Craig Hayes, Esq.

Respondent, through her counsel, entered a plea of Not Guilty to the subject charge. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent is found Not Guilty.

SUMMARY OF EVIDENCE PRESENTED

Introduction

It is not disputed that on March 28, 2013 at about 4:30 p.m., Respondent, who was assigned to the Brooklyn Court Section (BCS), was on duty assigned to new court security post number one inside the New Courtroom, located on the first floor of the courthouse, where arraignments of prisoners are conducted. It is also not disputed that Person A, a prisoner who was seated on the pre-arraignment bench inside the New Courtroom waiting to be arraigned, got up from the bench, left the courtroom and escaped from custody. Person A was re-apprehended later that day.

The Department Advocate's Case

The Assistant Department Advocate called Sergeants Carlos Escobar and Kelley Sealy as witnesses.

Sergeant Carlos Escobar

Escobar, a nine-year member of the service (MOS) who is assigned to the Criminal Justice Bureau's Investigations Unit, was assigned to investigate the escape of Person A. Escobar explained that there are five police posts that are located either inside or just outside the New Courtroom. Security post number one is located in the middle of the courtroom and the MOS who is assigned to that post stands behind the prisoner who is being arraigned by the judge.

Security post number two is located on the side of the courtroom near the bench where prisoners awaiting arraignment are seated. The officer assigned to the feeder post escorts prisoners from the holding cells into the courtroom and seats the prisoners on the bench to await arraignment. The book post is located just outside the courtroom in the area where the holding cells are located. The recorder post is located opposite the pre-arraignment bench.

Escobar's investigation revealed that on March 28, 2013, no MOS was assigned to post number two due to a lack of personnel. Officer Reagan was assigned to the feeder post on March 28, 2013, but at the point in time when Person A escaped he was not present at his post because the desk officer had summoned him to go upstairs to receive a phone call.

Escobar ascertained that Person A had been arrested for narcotics possession and that he was initially brought into the courtroom at about 3:30 p.m. but he was returned to the holding cells because a parole warrant needed to be retrieved. An hour later, he was escorted back into the courtroom and seated on the pre-arraignment bench by an officer assigned to the 67 Precinct. After handing over paperwork to Officer Rivera, who was assigned to the recorder post that day, the officer from the 67 Precinct exited the courtroom. Person A subsequently escaped from the courtroom.

Escobar recalled that, at an official Department interview that was conducted on March 28, 2013, Respondent stated that she first saw Person A leaving the courtroom when a court officer called out, in reference to Person A, "Who is that guy?"

Escobar asserted that as the officer assigned to security post number one inside the courtroom, Respondent was responsible for ensuring that the prisoner who was being arraigned in front of the judge was secure, she was required to listen to the judge when he announced his decision as to the prisoner's bail status, and she was required to keep the prisoners on the pre-

arraignment bench under her constant observation. Escobar opined that it was his belief that Respondent must have been inattentive regarding the prisoners who were seated on the pre-arraignment bench and her inattentiveness made it possible for Person A to escape.

On cross-examination, Escobar agreed that the officer assigned to the recorder post is seated because that post is responsible for reviewing arrest paperwork, and that the officer who is assigned to security post number two is responsible for watching the prisoners who are seated on the pre-arraignment bench and preventing contact between those prisoners and members of the public who are seated in the spectator section. Escobar also agreed that the officer who is assigned to security post number one is always closest to the prisoner who is being arraigned. Escobar further agreed that disruptions and even dangerous situations can arise during the course of a prisoner arraignment, and that the safety of everyone who is inside the courtroom is dependent on the officer at post number one staying close to the prisoner who is standing in front of the judge being arraigned.

Escobar confirmed that the correct way for the officer who is assigned to security post number one to maintain tight security of the prisoner who is being arraigned is for the officer to stand directly behind the prisoner and remain physically close to the prisoner so that the officer can grab the prisoner if necessary. Escobar agreed that because the officer assigned to security post number one is facing forward while standing behind the back of the prisoner who is being arraigned, and because the pre-arraignment bench is located to the officer's left and slightly behind where the officer would be standing, it is physically impossible for the officer assigned to post number one to simultaneously keep in view both the prisoner who is being arraigned and the prisoners who are seated on the pre-arraignment bench.

Escobar confirmed that post numbers one and two were the most important security posts during arraignments because the officers assigned to those posts deal with prisoners who are inside the courtroom and that a BCS manual states that the main focus of the officer who is assigned to post number one is securing the prisoner who is being arraigned and the main focus of the officer who is assigned to post number two is securing the prisoners who are seated on the pre-arraignment bench.

Escobar agreed that his investigation had revealed that a prisoner was standing in front of the judge being arraigned at the point when Person A got up from the pre-arraignment bench and walked out of the courtroom; that at that point in time Respondent was in the proper location for post number one because she was standing directly behind the prisoner being arraigned and maintaining security of that prisoner; and that Person A had escaped from the general area of post number two which was the post at which no officer was assigned that day.

Escobar recalled that the supervising sergeant received a command discipline for having failed to adequately staff the courtroom that day because by directing Officer Reagan to go upstairs to answer a phone call, the sergeant had reduced what was regularly a five-officer detail to just three officers. Instead of personally filling in at one of the two vacant posts until Reagan returned, the sergeant took a personal break and went to the bathroom. It was while the sergeant was inside the bathroom that Person A escaped. No other MOS who was working in the courtroom that day received any discipline regarding Person A's escape.

Escobar agreed that his investigation had revealed that Person A was at the door of the courtroom and was just about to walk out when a court officer called out, "Who is that guy?" Escobar confirmed that the door Person A left through was located behind Respondent and that it was Respondent who notified the supervising lieutenant of Person A's escape.

Sergeant Kelley Sealy

Sealy, an 18-year MOS who has been assigned as the training sergeant at BCS for the last eight years, recalled that she trained Respondent when Respondent arrived at BCS.

[Department's Exhibit (DX) 1] Sealy trained Respondent that the purpose of post number one is to ensure that the prisoner who is being arraigned does not escape and that the officer who is assigned to post number one must remain within a few inches of the back of that prisoner so that the officer can grab the prisoner if necessary. As to the prisoners who are seated on the bench awaiting to be arraigned, Sealy instructed Respondent that, "It's all part of the same function. It's in the courtroom, so you have to keep an eye on them and make sure they don't leave, too."

Sealy recalled that she has personally worked at security post number one in the new court on more than ten occasions. She testified that the officer assigned to post number one can simultaneously maintain a view of both the prisoner being arraigned and the pre-arraignment bench. She explained that, "You can split it up. The only time you would have a problem" is when "you have a prisoner you already know you have an issue with" because "you will pay a little bit more attention" to that unruly prisoner. She opined that "once that arraignment is over, you can go back to looking at them. You can't stare at one completely and not watch the other." Officers assigned to the front, book, and recorder posts are not responsible for watching the bench. The New Courtroom is larger than the Department trial room. Sealy was not present in the courtroom when Person A escaped.

On cross-examination, Sealy confirmed that all officers assigned to the courtroom have a general responsibility to ensure that no one escapes. She further confirmed that it would not be proper for an officer assigned to post number one to focus exclusively on the pre-arraignment bench.

On redirect examination, Sealy testified that Respondent never received a BCS training manual about security post responsibilities.

On recross-examination, she testified that when she first started working at BCS, security post number two did not exist. She conceded that having an officer assigned to post number two makes it easier to secure the courtroom.

### Respondent's Case

Respondent testified on her own behalf.

### Respondent

Respondent, a ten-year MOS, has been assigned to BCS since August, 2012. As the officer assigned to courtroom security post number one on March 28, 2013, she was responsible for securing prisoners who were being arraigned by the judge. There were normally two other officers assigned to security posts inside the courtroom. Security post number two was the post which is nearest to the pre-arraignment bench. There was no officer assigned to courtroom security post number two on March 28, 2013. There were usually about eight prisoners seated on the bench waiting to be arraigned.

From her position at post number one, Respondent was able to see the pre-arraignment bench when she turned her head sideways and looked to her left. However, she could not always see every prisoner who was seated on the pre-arraignment bench because her vision of the bench was sometimes partially blocked by people moving around in the area between security post number one and the pre-arraignment bench since it was not uncommon for attorneys, court clerks, and police officers to walk back and forth in that area of the courtroom.

Just prior to Person A's escape, Respondent was standing behind a prisoner who was being arraigned before the judge. Respondent explained what happened next: "At the time I was alerted there was a problem, the court officer at the bridge stated to the police officer that was walking out of the courtroom, 'Is that your guy?' indicating that there was somebody following him out." Respondent turned around toward the rear of the courtroom to see what the court officer was talking about. She observed Person A walking out the door behind a uniformed police officer.

At that point, Respondent and Officer Rivera, who was assigned to the recorder post, brought all of the prisoners in the courtroom back to the holding cell area. Once all prisoners were secured, Respondent exited the building and conducted a canvass for Person A. She also notified her lieutenant of the escape. Person A was re-apprehended at his residence.

On cross-examination, Respondent agreed that all of the security posts in the courtroom were responsible for keeping the pre-arraignment bench under surveillance, but she was unable to keep the bench under constant surveillance while she had a prisoner being arraigned in front of her. She did not see Person A get up from the bench. She knew security post number two was vacant that day and that it was one of her duties to prevent prisoners from escaping from the courtroom.

Respondent asserted that the officer assigned to security post number one is also required to keep an eye on any spectators in the courtroom who are in the public seating area, including those who are seated behind her and are physically close to the prisoner being arraigned.



FINDINGS AND ANALYSIS

It is charged that on March 28, 2013, Respondent, who was on duty assigned to New Court security post number one, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that she “failed to keep a prisoner,” Person A who was seated on the pre-arraignment bench waiting to be arraigned, “under constant surveillance, which resulted in” Person A getting up from the pre-arraignment bench and escaping from the courtroom.

The Assistant Department Advocate (the Advocate) did not call anyone to testify as a witness at this trial who was present inside the courtroom when Person A escaped from the courtroom. The Advocate attempted to meet his burden of proof by calling Sergeant Escobar to testify about his investigation of Person A’s escape and by calling Sergeant Sealy to testify about Respondent’s training.

Escobar’s testimony regarding Respondent’s duties as the officer assigned to court security post number one, his testimony regarding the duties of the other court security posts, and his testimony regarding the staffing of the courtroom at the point in time when Person A escaped, corroborate Respondent’s testimony. Thus, it is not disputed that under the BCS courtroom security procedures that were in place on March 28, 2013, as the officer assigned to court security post number one, Respondent was required to stand directly behind, and very close to, the back of the prisoner who was being arraigned in order to maintain tight security of the prisoner and so that she could grab the prisoner if necessary. Escobar agreed that Respondent was also required to pay attention to the judge’s ruling regarding the prisoner’s post-arraignment bail status.

Escobar also corroborated Respondent's testimony that the officer who is assigned to court security post number two essentially takes custody of and watches the prisoners who have been escorted into the courtroom seated on the pre-arraignment bench by the officer assigned to the feeder post. Escobar further corroborated Respondent's testimony that on March 28, 2013, no officer was present at security post number two all day and no officer was present at the feeder post either at the point when Person A got up from the pre-arraignment bench and exited the courtroom because the supervising sergeant had directed the officer who was assigned to the feeder post to leave the courtroom and go telephone a lieutenant and, rather than replacing the officer until he returned, the supervising sergeant had left the courtroom to go to the bathroom. Thus, the record establishes that at the point when Person A escaped no officer was present at two of the courtroom security posts.

Most significantly, Escobar corroborated Respondent's testimony that since the officer assigned to security post number one is facing forward toward the judge's bench while standing close behind the back of the prisoner who is being arraigned, and because the pre-arraignment bench is located to the officer's left, it is physically impossible for the officer assigned to post number one to simultaneously and constantly keep in view both the prisoner who is being arraigned and the prisoners who are seated on the pre-arraignment bench. (See Transcript p. 40-41)

Thus, Escobar corroborated Respondent's claim that it is not physically possible for the officer at post number one to keep the pre-arraignment bench "under constant surveillance" as Respondent is charged with having failed to do.

Sergeant Sealy opined that if Respondent had positioned herself behind the prisoner being arraigned in a manner in which her body was slightly turned to the left, she could have

kept both the prisoner being arraigned and the prisoners on the pre-arraignment bench under constant surveillance. However, the Advocate did not dispute Respondent's claim that she was also required to keep an eye on spectators in the public seating area behind her to prevent relatives of the prisoner being arraigned from communicating with the prisoner and to prevent relatives of the victim of the crime the prisoner is charged with from disrupting the arraignment by yelling at the prisoner. (Transcript p. 94) Thus, even if I adopted Sealy's supposition, the record shows that because the officer assigned to security post number one must maintain a 180 degree field of vision in order to keep an eye on all of the prisoners as well as spectators, it is impossible for the officer assigned to security post number one to keep the prisoners seated on the pre-arraignment bench under constant surveillance, which explains why security post number two was created when it had not previously existed, as Sealy testified.


Finally, although Respondent acknowledged that she was first alerted to Person A's escape when she heard a court officer at the bridge ask, "Is that your guy?" since the Advocate offered no eyewitness testimony to counter Respondent's claim that Person A was already near the exit door leading to the hallway closely following behind a uniformed officer who had just dropped off paperwork with the recorder (Transcript p. 100-103), Respondent's acknowledgment does not establish that she is guilty as charged here.

Since the Advocate failed to meet his burden of proof that Person A was able to escape from the courtroom only because Respondent failed to keep Person A "under constant surveillance," Respondent is found Not Guilty.

Respectfully submitted,

**APPROVED**

APR 14 2014  
  
WILLIAM J. BRATTON  
POLICE COMMISSIONER

  
Robert W. Vinal  
Assistant Deputy Commissioner – Trials

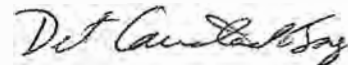
**POLICE DEPARTMENT  
CITY OF NEW YORK**

February 10, 2014

From: Case Coordinator, Deputy Commissioner -- Trials  
To: Police Commissioner  
Subject: **NO FOGEL RESPONSE FROM RESPONDENTS' ATTORNEY**

1. A draft revised copy of Page 11 of the proposed decision and recommendation in regards to Police Officer Julie Lockett, Tax Registry No. 933939, Disciplinary Case No. 2013-9514 was sent to the Respondent's attorney with any further comments due on March 3, 2014. The Respondent's attorney has not forwarded a second Fogel response regarding the correction made to Page 11.

2. For your **INFORMATION**.



Caridad Baez  
Detective